

MAC A. STEVENS

IBLA 84-507

Decided October 15, 1984

Appeal from a decision of the Anchorage District Office, Bureau of Land Management, declaring mining claims AA-24711 and AA-24712 null and void ab initio.

Affirmed.

1. Mining Claims: Lands Subject to -- Mining Claims: Withdrawn Land

Mining claims located on land previously withdrawn from mineral entry by Public Land Orders Nos. 5653 and 5654, 43 FR 59756-57, are properly declared null and void ab initio.

2. Notice: Generally -- Regulations: Generally

All persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations.

APPEARANCES: Mac A. Stevens, pro se.

OPINION BY ADMINISTRATIVE JUDGE STUEBING

Mac A. Stevens appeals from a decision of the Anchorage District Office, Bureau of Land Management (BLM), dated March 14, 1984, declaring his mining claims AA-24711 and AA-24712 null and void ab initio. Pursuant to 43 U.S.C. § 1744 (1982) and 43 CFR 3833, notices of location for the above-referenced placer mining claims were filed for recording on February 20, 1979, with BLM. The notices state that the claims were located on November 25, 1978. The claims lie within T. 20 S., R. 2 E., Fairbanks Meridian, Alaska.

BLM relied upon Public Land Orders Nos. 5653 and 5654 as the basis for declaring the subject mining claims null and void ab initio. Public Land Orders Nos. 5653 (Nov. 16, 1978) and 5654 (Nov. 17, 1978), 43 FR 59756-57 (Dec. 21, 1978), withdrew the subject land from "settlement, sale, location, entry or selection under the operation of the public land laws, including

but not limited to the mining laws \* \* \* and [provided that the lands] are reserved and appropriated for the public purpose of preserving, protecting, and maintaining the resource value of said lands which would otherwise be lost." Appellant argues on appeal that he had no knowledge that the subject land was closed to mineral entry, and that he has performed assessment work each year at considerable expense.

[1] It has been firmly established that a mining claim located on lands that were withdrawn from location is null and void ab initio, *i.e.*, without legal effect from the beginning. *E.g.*, Homer Owens, 81 IBLA 402, 403 (1984); Mineral Life Corp., 81 IBLA 103, 104 (1984); Amoco Minerals Co., 81 IBLA 23, 25 (1984); Howard J. Hunt, 80 IBLA 396, 398 (1984); Robert E. Dawson, 80 IBLA 99, 100 (1984).

Under the mining laws, appellant has a right to enter and locate mining claims on public lands available for that purpose. However, property rights are not created by the location of mining claims on lands that are not open to mineral entry and location. Withdrawn lands are not open to mineral entry and location, therefore, such claims are void as a matter of law. *See United States v. Consolidated Mines & Smelting Co.*, 455 F.2d 432 (9th Cir. 1971); Dredge Corp. v. Penny, 362 F.2d 889 (9th Cir. 1966); Homer Owens, *supra* at 403. In the instant case, Public Land Order Nos. 5653 and 5654 withdrew the subject land from location or entry from November 16, 1978, to November 16, 1981. <sup>1/</sup> Appellant's notices of location indicate that the claims were in fact located while the subject land was withdrawn from entry or location. Thus, appellant's claims are null and void ab initio.

[2] Appellant contends that he had no knowledge that the subject land was closed to mineral entry. However, it is well established that persons dealing with the Government are presumed to have knowledge of relevant statutes and duly promulgated regulations. *E.g.*, 44 U.S.C. §§ 1507, 1510 (1982); Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947); James Neil Fletcher, 78 IBLA 330, 331-32 (1984); Our Turn Now Association, 77 IBLA 24, 26 (1983). Public Land Orders Nos. 5653 and 5654 were published in the Federal Register on December 21, 1978 (43 FR 59756-57), pursuant to applicable law and regulations, therefore, they are binding on everyone regardless of actual knowledge.

Appellant argues that he has performed assessment work each year at considerable expense. However, this is not a proper basis to reverse BLM's decision declaring appellant's mining claims null and void ab initio. No property rights were created by location of the claims on the withdrawn land. *E.g.*, United States v. Consolidated Mines & Smelting Co., *supra*; Dredge Corp. v. Penny, *supra*; Robert E. Dawson, *supra*. We therefore conclude that appellant's mining claims were properly declared null and void ab initio.

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<sup>1/</sup> Public Land Orders Nos. 5653 and 5654 expired 3 years from their effective dates. *See* 43 FR 59756-57 (Dec. 21, 1978).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Edward W. Stuebing  
Administrative Judge

We concur:

Franklin D. Arness  
Administrative Judge

C. Randall Grant, Jr.  
Administrative Judge

